



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
www.uspto.gov
DW 04-01

Paper No. 4

CHERYL A LETSON
87 BUSHNELL HOLLOW RD
BALTIMORE, CT 06330

COPY MAILED

MAY 08 2001

**OFFICE OF PETITIONS
A/C PATENTS**

In re Application of :
Lesson et al. : DECISION DISMISSING
Application No. 09/577,751 : PETITION
Filed: 8 December, 2000 :
For: Wacker Chaps :

This is a decision regarding the "letter" filed on 8 December, 2000, in response to a "Notice of Incomplete Nonprovisional Application" mailed on 15 August, 2000. The "letter" was accompanied by the \$130.00 petition fee required by 37 CFR 1.53(e) and 1.17(i). Accordingly, the "letter" is being treated as a petition under 37 CFR 1.53(e) requesting that the application be accorded a filing date of 23 May, 2000.

The petition is dismissed.

Application papers were deposited in the USPTO on 23 May, 2000. On 15 August, 2000, Initial Patent Examination Division mailed a "Notice of Incomplete Nonprovisional Application" stating that the present application had not been accorded a filing date, because the papers received at the USPTO did not include at least one claim. The Notice indicated that the filing date would be the date of receipt of a complete specification, including at least one claim.

On 23 May, 2000, 35 U.S.C. § 111(a)(2) provided that an "application shall include - (A) a specification as prescribed by section 112 of this title." Also, 35 U.S.C. § 111(a)(4) defined the filing date of an application as "the date on which the specification and any required drawing are received in the Patent and Trademark Office."

On 23 May, 2000, 35 U.S.C. § 112, second paragraph, provided that

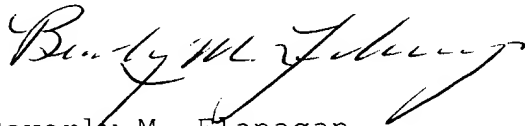
[t]he specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Thus, in order to be entitled to a filing date of 23 May, 2000, an application had to include at least one claim. A review of the application papers deposited on 23 May, 2000, confirms that the papers omitted a claim as required by 35 U.S.C. § 112, second paragraph. Thus, the "Notice" mailed on 15 August, 2000, was correct and will not be withdrawn.

The petition filed on 8 December, 2000, includes a paragraph including the language, "[t]he claim that we make is based on the one-piece garment protection with adjustability built in." The paragraph may be construed as an informal claim for filing date purposes. Therefore, the application will be accorded a filing date of 8 December, 2000.

The application is being returned to the Office of Initial Patent Examination for further processing with a filing date of 8 December, 2000, using the specification and drawings deposited on 23 May, 2000, and the claim filed on 8 December, 2000.

Telephone inquiries concerning this matter may be directed to Petitions Attorney Douglas I. Wood at (703)308-6918.



Beverly M. Flanagan
Supervisory Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy